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## II. BOOK REVIEWS.

YEAR BOOKS OF EDWARD II. Vol. I. Edited for the Selden Society by F. W. Maitland. Being Volume XVII, for the year 1903. London: Bernard Quaritch. 1903. pp. xciv, 258. 8vo.

It is hard to speak with due moderation of such a book as this. It is so full of learning, so interesting in what it contains, and above all so full of hope and promise for the future, that one's first feeling is merely one of gratitude to the great scholar from whose brave patience and perseverance it has resulted.

For two centuries and a half the year books were a graphic record of the proceedings of the king's courts. Not only the progress of the law, but in a great degree the progress of national life, must be traced in their pages. In them the lawyer finds the history of his law, the historian finds the most authentic source of knowledge of the life of the times, the economist gets his data, and the student of literature finds dramas of real life told with admirable art. Yet of this long series of priceless documents only about half has ever been put into print; and

the published portion is so ill edited as often to be unusable. Of gaps in the published years the most serious is the hiatus during the whole reign of Richard II. — a transition period in law as in other aspects of English life. This hiatus there seems no present likelihood of filling. The volumes of the Rolls Series are gradually working through the unpublished years of Edward III., but it may be another generation before they get far into the next reign. Of the part already published the most corrupt text is undoubtedly that of Edward II.; and this is the text the Selden Society is now beginning to correct for us.

An impatient American finds it hard to acquiesce in the deliberate elegance with which the Master of the Rolls and the Selden Society are proceeding in their task. "What profit me," he asks, "wide margins and learned notes, if I must lay aside my books before I can learn of the development of uses in the last decades of the fourteenth century; and if my learned disputation with Professor Blank about the true meaning of that passage in Maynard cannot be solved by the true text before it is too late for me to enjoy my certain triumph? Better have a good accurate translation from the best manuscript, printed like an ordinary book of reports, and leave the antiquarian study of the text for the leisure of future generations of scholars, and editions *de luxe* for those who buy their books to look at, not to read."

But though we may long for the speedy publication of a corrected text of the entire series of years, no one can fail to be glad that Professor Maitland has done just the work that appears here. The text has been corrected by comparison of manuscripts; this corrected text has been compared with the rolls, and a luminous translation has been added. But this is not all. We have learned to look to Professor Maitland's introductions for pleasure and profit; and we are not disappointed in this case.

The Introduction begins with a dissertation "of the Year Books in general," in which the editor finally disposes of Plowden's statement that the books were the product of an official system of reporting. It is here conclusively shown that the books were unofficial reports; and "we may strongly suspect that what was wanted was instruction, and that these books were made by learners for learners, by apprentices for apprentices." "As early as 1285 an ever memorable step was taken. Some one was endeavoring to report in the vernacular — that is, in French — the oral debates that he heard in court. In 1293 a fairly continuous stream began to flow. This surely is a memorable event. When duly considered it appears as one of the great events in English history. To-day men are reporting at Edinburgh and Dublin, at Boston and San Francisco, at Quebec and Sydney and Cape Town, at Calcutta and Madras. Their pedigree is unbroken and indisputable. It goes back to some nameless lawyers at Westminster to whom a happy thought had come."

The second part of the Introduction is a careful examination and comparison of certain cases from the text of Maynard with the corrected text and the roll. The errors which are pointed out in the old printed text are startling enough, but we all knew that the text could not be depended upon. Our only surprise is to learn that anything in print could have been quite so inaccurate.

The third part of the Introduction consists in what the editor modestly calls "a few remarks" on the language of the Year Books, which prove to be a learned and elaborate grammar of the Norman-French dialect of the Year-Books. Those who have groped without guide through the barbarous jargon of the later books will benefit by this.

The rest of the Introduction is taken up with a discussion of the manuscripts and of the expansions. A legal calendar follows for the two years that are covered.

When we come to the cases themselves, we are glad to find how much more modern, as well as more human, the law seems in its English dress.

Most of the cases are, to be sure, concerned with the obsolete land law of the time; and very few important cases have been added to Maynard's collection. We get from the rolls, however, several interesting bits of information.

In 1 Ed. II. 6 is an action of dower, in which the defendant eventually failed because she was proved to be a professed nun. The plea first offered

called on the demandant to show where the husband died; and the answer was, he died at Ypota on the sea of Greece. The roll adds new interest to the case when we learn that the husband was Sir John Mandeville; and though the date would seem to prevent our ascribing to him the work that bears his name, the roll must at least require a reconsideration of the disputed question of the authorship of the travels.

The roll in *Fisher v. Newgate* (2 Ed. II. 37) brings out an interesting point for which there was no such early authority. The action is debt on a bond, and the plaintiff is given his debt, with damages taxed by the court. The roll then adds, "and be it known that the said writing is redelivered to Richard uncanceled because other debtors are comprised in the same."

There is only one thing which we should wish to change about this book; and that is, that we must wait two years for its successor.

J. H. B., JR.

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A TREATISE ON THE CONSTITUTIONAL LIMITATIONS, which rest upon the Legislative Power of the States of the American Union. By Thomas M. Cooley. Seventh Edition. By Victor H. Lane, Professor of Law in the University of Michigan. Boston: Little, Brown, and Company. 1903. pp. cxxiii, 1036. 8vo.

When a law treatise as well known and as much quoted and of as high authority as Judge Cooley's *Treatise on Constitutional Limitations* has not been re-edited in thirteen years, a new edition is very welcome. Judge Cooley first published his treatise in 1868. The text and footnotes then covered six hundred and thirty-three pages of law octavo, and contained about thirty-five hundred citations. Within fifteen years the work went through five editions, and in the fifth, published in 1885, had been increased to seven hundred and ninety-one pages of text and footnotes containing about eight thousand citations. The work on all these editions was done by the author himself. In 1890 a sixth edition was published which differed from the fifth mainly in the addition of some two thousand cases. The text was little altered, and covered the same number of pages as the fifth.

The present edition is the work of Professor Lane of the University of Michigan. The text proper has not been altered. The addition of more than three thousand new cases has, however, increased the book about one hundred and fifty pages. The editor's work in bringing the book to date has been carefully done, and all the important cases of recent years seem to have been included in the volume. Some of these have been inserted in brackets in the old footnotes, while others have been made the basis of new notes by the present editor on topics suggested by but not discussed in the text. One difficulty, however, lies in the fact that these notes are not in the nature of additional text, but are collections of the points decided in numbers of more or less closely connected cases, the editor's work apparently being a condensation and restatement of the head-notes of these cases. As the index to this edition is practically the same as that of the sixth edition, much valuable information is not made as accessible as it might be by a larger generalization.

Citations are made in this edition to the *American State Reports* and to the *Lawyers Reports Annotated*, and duplicate references are made to all cases which are printed in the *National Reporter System*. This should prove to be an excellent change. In regard to the order of the citations there is room for some improvement. For the most part the scheme seems to be to cite the cases from a single jurisdiction beginning with the latest and going to the earliest. In some instances, however, citations have been made in the inverse order, and in some few others without regard to any system.